IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 11TH SEPTEMBER 2007 / 20TH BHADRA 1929

WP(C).No. 9645 of 2007(W)

PETITIONER:

REJIMOL THOMAS, AGED 41 YEARS,
D/O THOMAS, PARAMALAYIL, AMMANCHERY,
KOTTAYAM.

BY ADV. SRI.M.J.THOMAS

RESPONDENTS:
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1. THE TAHSILDAR,
KOTTAYAM.

2. THE VILLAGE OFFICER,
ATHIRAMPUZHA, KOTTAYAM.

3. M.L.LUKA, THUNDATHIL,KALLARA,
PERUMTHURUTHU, KOTTAYAM.

R1 AND R2 BY G.P. SRI. CK. GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE ASSESSMENT ORDER DATED 22.2.2006

EXT.P2 TRUE COPY OF THE DEMAND NOTICE DATED 22.3.2006

EXT.P3 TRUE COPY OF THE NOTICE DATED 22.3.2006

EXT.P4 TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER TO THE FIRST RESPONDENT ON 2.5.2006

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 9645 OF 2007

Dated this the 11th day of September, 2007

JUDGMENT

Petitioner is challenging recovery proceedings for recovery of building tax and luxury tax in respect of residential building sold by the petitioner to another person who in turn sold it to yet another person. So far as building tax liability is concerned, even though it is that of the person who completed construction of the building, there is a charge on the building so constructed by virtue of operation of Section 19(2) of the Kerala Building Tax Act. Luxury tax is a continuous liability and the person in possession and enjoyment of the building will be continuously liable to pay luxury tax. Hence both building tax and luxury tax could be recovered by attachment and sale of the assessed building under Section 19(2) of the Act, the Tahsildar is directed to issue notice to the present owner and if arrears of tax is not paid with interest to proceed to sell the building and recover the arrears of tax. It is for the sellers and Buyers to settle the dispute if any among them with regard to the person who under agreement has taken over liability.

W.P. is closed with the above observations.

(C.N.RAMACHANDRAN NAIR)
Judge